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***Proposed Plan Change
Section 32 Report
Oyster Bay
Port Underwood***

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1. INTRODUCTION

- 1.1 The proposed plan change is promoted by the landowners of Oyster Bay Developments Ltd who wish to better utilise the potential of their land by rezoning it for residential purposes.
- 1.2 The land in question is located at Oyster Bay, Port Underwood. Oyster Bay is situated in the NW corner of the Port Underwood Sound. It is legally described as Lot 6 DP 11879 and Part Section XII Arapawa Survey District.
- 1.3 The proposal is to rezone the site identified above from Rural 1 to Sounds Residential. The total area of the site to be rezoned is approximately 26 hectares. The location of the site is identified at Appendix 1 to the accompanying "Request for Plan Change".
- 1.4 Under the Sounds Residential Zoning any subdivision of the site will be a controlled activity subject to meeting the necessary standards within the Marlborough Sounds Resource Management Plan, and any proposed dwellings on the allotments created will be a permitted activity subject to the bulk and location controls contained within the Plan.
- 1.5 The land is marginal pastoral grazing land with the steeper slopes being used for exotic forestry, the majority of which have been recently harvested. Forestry in the Port Underwood area is generally no longer economic with the present commercial climate.
- 1.6 The land has been utilised as a lifestyle farming unit by the Fitzgerald family for the past 9 years but there is no economic viability in this practice. The ongoing maintenance to reduce noxious weeds, and maintain a larger area of land is costing the owners financially, and they are looking to better utilise the land. The size of the block precludes on selling as a whole for economic agricultural purposes, and an alternative use of the land is appropriate.

- 1.7 There is a market, from both local and outside buyers, for smaller size lots as holiday homes in the Sounds. The subdividing of the block to 4,000m² lots will go some way to meet this, and numerous owners will reduce the overall maintenance farming costs.
- 1.8 The landscape of the area is undulating, with the site situated in a natural valley in which future development will be well contained and hidden from most other users of the Bay. This issue is supported by the Landscape Report attached as Appendix D, and addressed more fully in this assessment.
- 1.9 There was a recent non complying subdivision that removed Lot 6 DP11879 from the existing farm, and created five additional lots with areas ranging between 3681m² and 5541m². These are legally described as Lots 1 – 5 DP11879. Although they are of a size appropriate to the Sounds Residential Zone, they are still zoned Rural.
- 1.10 We are not proposing to alter this zoning due to the concerns that some of the residents of these properties have regarding the ongoing use of their property. Whilst it would tidy up the zoning in the area, and keep it compatible, it is not considered that leaving these blocks a rural would cause any conflicts due to the size of the properties. They are consistent with the areas in the Sounds Residential Zone, and therefore will not be capable of supporting rural activities of a scale that would lead to reverse sensitivity effects being an issue. (This is discussed further in Section 3.2)
- 1.11 The five lots that share the right of way directly to the south of the above lots, being Lots 1-5 DP 8632 are already zoned Sounds Residential. The property, across the road, from the north-eastern corner of the subject site also has a Sounds Residential zoning, and has an area of 2230m².

- 1.12 Five hundred metres to the north in Hakahaka Bay there is a small settlement of approximately 20 allotments, which are all zoned Sounds Residential.
- 1.13 The site is located at the head of the Bay, in an area that traditionally has been considered a suitable location for a cluster of houses, and will continue a development pattern that is evident elsewhere in the Marlborough Sounds.
- 1.14 The rezoning sought will provide for those desiring to reside, or have a holiday home in the area but who do not wish to have to purchase and maintain a 30ha allotment being the size required under the rural zoning.

2. RESOURCE MANAGEMENT ACT

- 2.1. This plan change request is made pursuant to Section 73(2) and Clause 21 of the First Schedule of the Resource Management Act. While the First Schedule sets out the procedural matters for dealing with changes to policy statements and plans, Part V of the Act sets out what considerations must be made in assessing the substance of the change. Section 74 of the Act identifies those matters which must be considered, these being:
- a) The Council's functions under Section 31.
 - b) The provisions of Part II of the Act.
 - c) The duty imposed by Section 32.
- 2.2 In addition regard must be had to any regional policy statement, any other management plans or strategies prepared under other legislation and the contents of adjacent territorial authority plans to the extent that matters of consistency need to be addressed as well as other planning documents recognised by an iwi authority affected by the district plan. Furthermore, the contents of a District Plan must give effect to any relevant Regional Policy Statement (S75(3)(c) RMA).
- 2.3 Section 32 RMA sets out the duties of the Council in respect of any objective, policy, rule or other method to be adopted designed to achieve the purpose of the Act.
- 2.4 In addressing the above tests an examination of Part II is required as well as the likely costs and benefits of the change. As a precursory matter it is considered that the proposed change relates to activities which fall within the scope of Council's functions listed in Section 31 of the Act and encompasses matters related to Districts identified in Part II of the Second Schedule to the Act.

- 2.5 Any plan change has to be consistent with achieving the purpose of the Act and withstand the rigours set out in Section 32. Given this that the most paramount question that must be considered is:

Will the change promote the sustainable management of natural and physical resources? (This being the purpose of the Act). This requires the change to be examined against Section 5 (2) of the Act which expands on what the notion of sustainable management is concerned with.

Most appropriate way to achieve the purpose of the Act (Section 32(3))

- 2.6 It is considered that whether or not the change is the most appropriate way to achieve the purpose of the Act typically turns on whether or not the adverse effects that may result from the activities provided for by the change fall within acceptable levels. This is on the basis that the change seeks to provide for greater development opportunities than currently exist. This is because of the enabling intention of the legislation that stems from the provisions of sections 5, 9 and 32 of the Act. These provisions specify that people's aspirations and property rights must only be interfered with or controlled to the extent necessary to achieve the purpose of the Act. Therefore, if a change is in line with the purpose of the RMA, ie the adverse effects of the new activities are within appropriate levels, then it is considered that the more permissive controls in respect to residential opportunities contained in the plan change request will better achieve the purpose of the Act.
- 2.7 In this case the rezoning being sought will allow a greater level of development in the form of residential activity to occur than the present zoning does. Whether or not this change will better achieve the purpose of the Act ultimately turns on the adverse effects of the proposal. Such effects can be evaluated through a cost and benefit analysis as required by Section 32 of the Act and in accordance with Part II itself.

3. INFRASTRUCTURE

3.1 INTRODUCTION

Section 32 of the RMA requires the consideration of alternatives and assesses the benefits and costs of adopting any objective, policy, rule or method in the Resource Management Plan.

This report must therefore, set out the potential costs that require consideration. In order to provide this information to Council a number of independent reports were commissioned by the applicants to cover the aspects required to address the issues.

The reports included in the Appendix to this report are:

- Transportation Assessment
- Water Supply, Flood Hazard and Stormwater Assessment
- Site and Soil Evaluation Report for Effluent Disposal
- Landscape Report

The following sections provide a précis of these reports.

3.2 TRANSPORTATION ASSESSMENT

The Port Underwood Road has been very much in the public eye in recent years due to the numbers of logging trucks using the road. To a certain extent, with the barging of logs from Opuia Bay, a relatively high number of trucks have now been removed from the road.

Traffic Design Group (TDG) in their report describe the existing road environment through from Waikawa to Oyster Bay, and also examine the traffic effects that can be expected to result from the proposed rezoning.

At present there are two dwellings on the site compared to the possible 40 anticipated under the zoning sought, so the rezoning of the land will obviously result in increased traffic movements.

In the opinion of TDG the traffic that will be generated through the rezoning of the Oyster Bay land will be able to be accommodated within the existing roading network.

The report states that:

“The road infrastructure will be more than adequate to safely and conveniently accommodate all of the projected future traffic that might ultimately eventuate from the planned rezoning”.

An addendum dated 15 February 2006 has been attached to the TDG report which clarifies and correct some matters within the report.

A further report prepared by the applicants (included in Appendix A) assesses other potential development levels in the wider area and the likely traffic movements. The assessment concluded that even with other land being development over the next 15 years the level of traffic that might eventuate, falls within the existing capacity of the road network.

3.3 WATER SUPPLY, FLOOD HAZARD AND STORMWATER ASSESSMENT

3.3.1 Water Supply

The report prepared by Connell Wagner, Blenheim recommends to supply the new development with water by harvesting rainwater run off from the roof areas, and supplementing this with the existing consented water supply.

There is also the potential for a supplementary underground source, and/or the ability to take surface water flows from the stream on the north side of the development. Further investigation is required to confirm the availability and to quantify these potential sources.

The report sets out the domestic water assessment basis for both the existing and proposed households. The average rainfall is assessed at approx. 1300mm/year, and using these figures it indicates the suitability of rainwater supply for up to 90% of the time. The report advises that it would be preferable to be able to supplement it from the existing stream supply when required.

Fire fighting requirements are also addressed, as is potable water. Water quality must now conform to the NZ Drinking water standards, which have become more stringent over the last few years. However there are practical and common methods with filters available to address this issue.

3.3.2 Stormwater Disposal

Stormwater will need to be discharged to the closest watercourse in a controlled manner in order to prevent any adverse effects of runoff flooding buildings or amenity areas. This will involve collecting sheet flow from the adjacent hillsides and the directing the existing channels to the main watercourses. This may be achieved by using open drains or swales through private properties.

The proposed minimum section size of 4000 m², means that new buildings and hard standing areas will form only a small proportion of the lot size. An impervious area of 500 m² is expected to increase the total runoff from a 4000 m² section by 14%.

Over the whole catchment, the additional impervious surfaces in the form of houses, garages, and driveways are only expected to increase the peak flows by less than 2%, which is insignificant in terms of the increase in flood level depths.

3.3.3 Flood Hazard

The Marlborough Sounds Resource Management Plan (MSRMP) shows part of the proposed development area in the Flood Hazard overlay. It is understood that this was included in the MSRMP due to the historical knowledge of out of channel flooding.

In order to validate the Council assessment of the hazard levels proposed by Council for this proposal, Connell Wagner carried out an hydraulic analysis of the mainstreams.

The details are included in the Connell Wagner report together with plans of the area attached as Appendix C. The report addresses the possible higher risk areas from flooding.

In order for more intensive development to take place at Oyster Bay it is acknowledged that there will be works at the development stage with regard to potential flood hazards and stormwater disposal. Listed is a summary of recommendations from the report.

- It is proposed that the floodway and overflow spill paths need to be clearly defined at the time of subdivision. This would include control of sheet flows from the adjacent hillsides to the stream channels.
- All floor levels should be raised to an appropriate level defined by detailed flood hazard mapping at the subdivision stage, and this level should include an agreed freeboard allowance for sedimentation.
- It is recommended to raise ground levels on the true right bank of the stream on the northern boundary of the development area in order to prevent flows spilling to the south.
- It is recommended that a suitable buffer distance for building structures shall be set at subdivision stage to allow for aggradation of the stream channel and the natural meandering processes of the stream channel.
- In the case where the flooding is reasonably accurately defined (i.e. with the removal of the inadequate culverts), an eight metre wide strip outside the defined '100 year' floodplain is recommended to allow for managing the natural meandering nature of the stream channels. Channel shaping and erosion control planting may also be required in places to manage eroding stream banks.
- It is highly desirable to retain upper catchment riparian areas in vegetation to limit sediment supply to the development area.
- Stream crossings shall be adequately designed for floodway flows as indicated above. If crossing structures are designed to overtop, there should be a clearly defined floodway to return flows back to the channel.
- Stream crossing structures shall be designed to allow for efficient sediment transport and so that they can easily be cleared of sediment after large flood events.
- Stormwater should be collected and discharged from the proposed allotments in a controlled manner through roadside drains and drainage easements where required.

The report concludes that the potential flooding risks can be addressed in a satisfactory manner to allow for more intensive development.

The report also states that the existing hazard overlay map shown on the MSRMP planning maps to be appropriate for future development, as it includes both the stream channels, and encompasses the area that can be flooded by the northern stream breaking out to the south.

3.3.4 Summary

The conclusions reached are that there are viable alternatives to service the development that would be provided for by the proposed zoning. The costs of servicing the development will fall on the developer and as such are not costs on the public generally.

3.4 SITE AND SOIL EVALUATION REPORT

Abacus Design, of Blenheim have provided a report on the suitability of the sections for rezoning and subdivision, with regard to onsite domestic wastewater disposal.

A soil survey was carried out over the site with test sampling in each of the three terrain types identified. The recommendation is that the site is suitable for on site effluent disposal through Secondary Treatment Plants and irrigated disposal fields, providing a minimum of 514m² is available for effluent disposal. As the Sounds Residential lots are proposed at 4000m² then there is adequate area to allow for this requirement.

A further report has been provided by the applicants (also in Appendix B) with regard to alternative servicing of the lots, and varying secondary treatment packages available. With the current variation to the MSRMP as regards effluent disposal a potential small community, such as envisaged with the rezoning should also look at alternate methods for waste disposal. These have been discussed within the report compiled by Mr DC Thomson. The recommendation, after looking at various options, from composting and incinerator toilets to a Central Treatment system, is that individual on site multi chamber systems combined with effluent disposal areas will be the most effective for the site.

3.5 LANDSCAPE ASSESSMENT

A landscape assessment has been prepared by Mr Rory Langbridge, Landscape Architect of Nelson. (Report attached as Appendix D).

In summary the main points from the landscape assessment are:

- The site is strategically located at the entrance to the wider area but does not occupy a highly visual locality;
- The valley floor is well suited to the development of a cluster of houses in a locality with limited potential for such development to take place. The site is located in an area that would traditionally have been considered a suitable location for a cluster of houses to be developed, which continues the development pattern evident elsewhere in the Sounds area.
- The effects of the development into a residential enclave over a number of years will not significantly impact on the amenity, landscape and natural character values of other uses of the Port Underwood area, both on land and when viewed from within the bay.
- The proposed development will lead to a change of character of the area (from rural to rural-residential) but this does not equate to a detracting or reduction in amenity values.

3.5.1 Recommendations

Mr Langbridge recommends that three constraints be imposed on any new development within this site.

Firstly, an overall subdivision plan be prepared to identify the location of the specific house sites to ensure a considered layout that relates to the landscape, and accommodates views and outlooks for each section.

Secondly, that consideration be given to an architectural and planting design guide to further integrate future development, and to reduce the visual impact that any development in this area will have on this location over time.

Thirdly, a height restriction of 7.5m maximum to be placed on all development within this new subdivision irrespective of their foundation type.

While a 7.5 metre height limit has been promoted, it is recognised that on some of the lower slopes of the site, normal engineering practice dictates that pole foundations will be required. This is because the Engineers report on flood hazard has stated that minimum floor heights should be set relative to the two main stream channels on the flatter areas. Where there is any potential for surface flooding, pole homes are the preferable option.

As such some buildings are likely to need to exceed the 7.5m specified height limit. The present plan provisions allow for buildings on pole foundations up to 10m in height as a permitted activity.

Given the above, it is considered that while the amenity some people presently enjoy may well change over time with the rezoning proposed it is not believed that this could be said to be a significant adverse effect or a significant 'cost' of the development proceeding.

This is considered for the following reasons:

- Any expectation that the existing level of amenity would be protected forever is incorrectly founded, as further development over the site could occur under the existing zoning.
- The activities provided for through the zoning proposed are compatible with existing surrounding activities.
- The site is considered to be ideally suited for the type of development the zoning would provide for as it has similarities to the existing pattern of development within the wider area and is fairly enclosed so that there will be very little visual impact upon the surrounding area.

3.6 ARCHAEOLOGICAL, HISTORICAL AND IWI

Identification of possible archaeological, historical and Iwi sites have been made over the years. A comprehensive archaeological report was done of the Port Underwood Area by Michael M. Trotter in 1975. The survey noted that there was more evidence of prehistoric occupation on the eastern side of Port Underwood as opposed to the western side. The report concluded that there was no evidence within the Port of any extensive or prolonged prehistoric occupation, giving the impression that the Port was occupied intermittently. It is mainly middens that make up the majority of the archaeological sites in Port Underwood. The majority of archaeological sites in Port Underwood are on either coastal reserves or already protected by legislation such as the Historic Places Trust Act.

Within the wider Oyster Bay area there are four archaeological sites, which have been registered with the New Zealand Archaeological Association although three of these are around Hakahaka Bay. There is one registered site in Oyster Bay (p27/79) which consists of pits and two more middens further up the valley (see Appendix FE). The pits are believed to represent a late, but pre-European – Maori Village. This site appears to be on the subject site and is protected by the provisions of the Historic Places Trust Act. The present proposal will in no way affect the protection already afforded to the features in question.

It is also acknowledged that the Fitzgerald's property is where the first Europeans of the area settled and the Pohutukawa tree that was planted at that time is now protected by the Council. The archaeological sites that exist are already protected and the present proposal in no way alters the protection in place. Archaeological sites have been located and identified within the site and as such any future development resulting from the Proposed Plan Change will be located sensitively. (See Appendix F for Archaeological plans)

3.7 MARINE CONSIDERATIONS

3.7.1 Boat Ramp

The present boat ramp used in Oyster Bay is located on the north side of the proposed development. It is the only boat ramp usable by 2WD vehicles at low tide, and for this reason it is used by boat owners from various bays in the Port area.

Parking of the boats and trailers is along one side of the road to the wharf, and along the foreshore area in Oyster Bay itself. Local owners tend to tow their boat trailer to their property, and leave it there for the duration.

There is only a relatively short period over which there is any congestion, both on the ramp or for parking. Port Marlborough expressed concern over parking along the road at certain times, which may hinder the access of the trucks utilising the wharf area. The Developer has looked at the possibility of setting aside an area for further boat trailer parking along the frontage of the subdivision.

3.7.2 Moorings

In the Port Underwood area there are very few private moorings. Oyster Bay has the greatest concentration of moorings, and they are predominantly for commercial use. Of the present residents in Oyster Bay the majority are utilising trailerable craft, both powered and non powered for their recreational and fishing use.

We do not have an expectation that there will be a demand for moorings as a result of the subdivision proposal. This is based on the present users around all the bays, and also is directly related to the accessibility of good fishing areas in a relatively confined sea area. The proximity to the open waters of Cook Strait means that these are accessible in a smaller craft, with a short travelling time.

After speaking to the Council there is still the possibility of moorings in the Hakahaka and Oyster Bay areas, and these would be assessed on a one by one basis.

3.8 ADVERSE EFFECTS

It is considered that the rules and controls for the Sounds Residential Zone should avoid, remedy or mitigate the identified potential adverse effects of the rezoning proposed. This will be achieved by rules and assessment criteria covering matters such as density, building setbacks, landscaping and building coverage controls. The Landscape Assessment concludes that rezoning will not lead to any significant costs (adverse effects).

Therefore those more restrictive controls for the rural area currently applying to the site in terms of residential opportunities are not considered necessary to meet the needs of future generations, provide for people's wellbeing, sustain life supporting capacities, or avoid, remedy or mitigate adverse effects on the environment. Nor are they considered necessary to achieve any of the requirements of sections 6, 7 and 8.

The purpose of the Act involves making adequate provisions in District Plans for activities, facilities, and services for which there is a demand so long as the adverse effects on the environment are avoided, remedied or mitigated. It is considered that the adverse effects (costs) arising from the proposed rezoning are not significant nor of a level that causes the proposal to be inconsistent with the purpose of the RMA. In addition it is considered that the benefits arising from the proposal, through a greater utilisation of the land resource available for residential purposes as opposed to rural activities, means that the purpose of the Act will be better met through the proposal proceeding.

In short the land is of limited value for agricultural activities and the proposed rezoning represents a benefit to the landowners in economic terms given it will provide a better return on the resources available than other viable activities that could be undertaken under the rural zoning of the site.

It is believed that the rezoning sought is preferable over the existing zoning in terms of Section 32 of the Act and to this end can be seen to be the most appropriate way to achieve the purpose of the Act as set out in Section 32(3) RMA.

4. MARKET ASSESSMENT

4.1 INTRODUCTION

The purpose of this assessment is to ascertain the level of demand that exists within the Port Underwood area for further Sounds Residential zoned land.

The proposed subdivision would comply with minimum allotment areas of approx. 4000 square metres as set out under the rules of the Sounds Plan. It is envisaged that the sites would predominantly be used during “holiday” periods, with the odd permanent resident.

At present the land is utilised as a lifestyle property, with one permanent residence and a holiday home. The land as it is does not have sufficient area to run as an economic farming unit.

4.2 ECONOMIC BENEFITS

Anecdotal evidence suggests that there will be demand for 4000m² allotments in the proposed location. Quite clearly there has been an increased demand for coastal properties particularly those with a sea view, around New Zealand. This includes the Marlborough Sounds in recent times, which presently shows no signs of easing.

The advantage Oyster Bay has over other locations in the Sounds, is the relatively “flat” lie of the land, the proximity to Blenheim and Picton, and the good sealed road access available.

There are presently rural blocks being subdivided and sold, but these are required to be at least 30ha in the rural area. For buyers looking for a short term stay of 2-3 months per annum, a smaller section for a holiday home is desirable, as there is less maintenance. As such, the 30ha minimum lot size applying to the rural zone is not efficiently meeting a demand for properties in the locality.

The availability of any relatively “flat” sections with good access by road in Port Underwood is limited. At present the bulk of the land zoned Sounds Residential has already been developed or is on steeper topography making potential development

much more difficult and expensive. The obvious advantage with a relatively flat site is that costs of development and future buildings can be reduced.

As such, the future development of the subject site will result in economic benefits compared to other steeper sites.

4.2.1 Existing Sounds Residential Areas zoned in Port Underwood

We have assessed the numbers of sections presently zoned Sounds Residential from Ocean Bay in the west, around the head of Port Underwood Bay to the properties on the eastern side.

Ocean Bay on the west side of the Bay has small pockets of Sounds Residential, and Rural zoned land that has been built on, with some very recent. Kakapo Bay has been subdivided within the last 5 years, and all sections (approximately 8) have been sold, or kept by the subdividing owner.

Tom Canes Bay is a relatively concentrated settlement with 5 houses on the sites with lot sizes down to 900m², along with a house in the rural zone.

There are two houses and a vacant section in Coles Bay. Uriti Bay has a number of houses scattered on the hillside in the Rural Zone. There are some thirteen sites in Oyster Bay, the majority of which have houses on them. The existing houses are across Rural and Sounds Residential Zones. Interestingly, there are five Rural Zoned sites of a Sounds Residential density.

Hakahaka Bay, with 30 sections has one of the largest populations in the Port Underwood area. Houses exist both in the Sounds Residential and Rural Zones, with some allotment areas down to 800m² in area. Given the recent demand for properties with sea views the Hakahaka area has seen substantial development on both vacant sections, and where old bach's have been removed.

The most recent subdivision has occurred between Blackball and Whangataura Bay, with most houses (apart from one or two on the beach side) being built on the steep hillside slopes. We understand that demand for the sites within the development has been good, and that all have sold.

Opihi Bay to the north has an area zoned Sounds Residential. There are two small sections in the SW corner on the flat, one of which has a bach on it. The balance of Sounds Residential zoned land has a flat area adjacent to the beach, with the balance land gently sloping to the road. This land is presently covered in exotic pine trees. This area would in the future appear to be well suited to further development, following the removal of the trees, and depending on servicing requirements. The access to this is however, by a narrow winding gravel road from Hakahaka Bay.

The remaining areas of Sounds Residential zoning in Port Underwood generally relate to long standing bach's located adjacent to the foreshore area. This extends from Ngakuta Bay, through Hakana Bay, to Kanae Bay and Tumbledown Bay.

4.2.2 Benefits

The potential for the land to be subdivided into a Sounds Residential zoning has a definite impact on the price interested parties are willing to pay. With the zoning comes a roading network, water and stormwater provisions according to the Council requirements, which are of a benefit to a buyer looking for a holiday home section. It also provides a community network for socialisation, and the possible spreading of costs over a number of properties. eg servicing of treatment plants.

The present proposal offers alternatives to buyers outside the region, and this in turn is a net gain for the area. The proposed sections will have all weather road access (rather than just by boat), and the subject site is only 40 minutes from the Ferry terminal. In addition to buyers from outside the region, it is anticipated that purchasers would also come from the local area of Blenheim and Picton where a bach in this area is seen as highly desirable. This may be because of proximity to their own residence, and the amenity of the area.

There is good fishing and readily available access to Cook Strait without having to own a large vessel. The majority of the present users in Port Underwood, apart from the Commercial owners, use trailerable craft.

It is considered that there is the potential for further residential growth in Oyster Bay given recent demand trends in Port Underwood. With this will come economic benefits. These are in the form of public and private benefits as described below.

The public benefits arise in the form of development contributions payable by those subdividing, increased rates and a larger rating base for future capital work.

New dwellings require the purchase of building supplies, and the employment of labour to carry out works on the sites. These are most likely to be drawn from the Picton & Blenheim areas.

In terms of private benefits the requirement to travel to and from Oyster Bay provides an opportunity for business for the provision of fuel and commodities at local garages. Combined with this are the marine services for boats that are anticipated to be used in Port Underwood.

With more people and dwellings in the locality there will be increased demand for consumable supplies. This would benefit local supermarkets and businesses, both in Picton and Blenheim.

Whilst the above assessment has been provided there is no onus on the applicant to demonstrate there is a demand for allotments of the type that the zoning sought would enable to be created (See GUS Properties Ltd v Marlborough District Council W075/94 - in particular page 16 of the decision).

4.3 ECONOMIC COSTS

In assessing the effect a rezoning from Rural to Sounds residential land would have, it is also necessary to assess the economic costs.

In this instance there are no direct utility costs to be met by the ratepayers of the District. As the subdivision is in a rural area of the Sounds there are no reticulated Council systems for the subdivision to connect to.

The potable water supply will be supplied from the stream within the property, in addition to roof water collected by the individual householders. The costs for the reticulation of the water to the lots will be met by the Developer.

The stormwater will be collected from the individual properties and the proposed roading network and directed to the internal streams, before discharging into Oyster Bay. These costs will be met by the Developer.

The sewage system for the development will be by way of individual onsite treatment systems, and these will be installed and maintained by the owners.

The roading within the proposed subdivision will be constructed according the Council's Code of Practice, and the costs met by the Developer.

4.4 SUMMARY

Any works in the area of the proposed subdivision would be beneficial to the Oyster Bay community as a whole, and improve the overall economic well being. It may also increase the existing prices of the properties adjacent by providing an integrated subdivision development that would be in keeping with the area.

The benefits out weight the costs (which are to be met by the developer and future owners) as seen from above, and the positive effects would be felt across the Blenheim and Picton businesses and communities.

Demand exists for properties with sea views, and an obvious benefit with the proposal is the relatively "flat" lie of the land compared to other areas in the Port Underwood area, combined with the road access, which definitely has appeal to prospective purchasers.

Given the benefits to the region as a whole, and the demand for properties with sea views this development is ideally situated.

The environmental costs of the proposal are limited, and are not of a scale that could be described as significant.

5. ALTERNATIVES

Another matter to be considered under Section 32 is alternatives. It is considered that as Section 32 is a methodology section it is not necessary to consider whether the type of activity proposed would be better undertaken on alternative sites. This has been confirmed by the High Court in *Brown v Dunedin City Council* AP32 and in *GUS Properties Ltd v Marlborough District Council* W075/94.

In considering alternatives it is necessary to consider different zoning controls to achieve the purpose of the Act, including leaving the existing rules in place. Alternative means such as the provision of information, services, incentives or levying of charges would not enable people and communities to provide for their wellbeing through rural-residential development and use of the site.

5.1 THE EXISTING ZONE

It is considered that the existing rules in place are not necessary to achieve the purpose of the Act. The existing provisions are too restrictive in terms of the level of residential activity provided for, in that the site appears to be well suited for a greater level of residential development, and to this end the proposed change better achieves the purpose of the Act.

5.2 RESOURCE CONSENT APPLICATIONS

It is considered that the scale of the development proposed, is such that it would be inconsistent with the existing provisions of the Marlborough Resource Management Plan. Furthermore, a series of non-complying resource consent applications would be required which would result in an inefficient use of resources. In a case such as this it is considered that the better way of enabling people to provide for their needs involves changing the zone in the Resource Management Plan.

5.3 ALTERNATIVE ZONE RULES

It may be that alternative zone rules along similar lines as those proposed could also achieve the purpose of the Act. At the same time creating alternative zones and new types of controls may no better achieve the purpose of the Act than those proposed. Overall, it is considered that the zone and associated provisions proposed will achieve the purpose of the Act, for the reasons given elsewhere in this assessment.

In terms of the creation of a new zone for the site or some variant on the Sounds Residential Zone we see there being no justification to do so. Our landscape advice is that the density of development allowed under the Sounds Residential zone is appropriate subject to some controls. The one matter not already addressed in the Resource Management Plan is height and we have discussed the possibility of a reduced height limit. Whilst a reduced height limit has been proposed it is recognised that on some parts of the site it will be necessary to exceed this limit with pole foundations. To this end the height limit of 10m for such structures appears appropriate. In all other respects it is considered the existing Zone and Plan provisions applying to development in the Sounds Residential Zone appropriate.

The servicing assessment have concluded that development of the density allowed under the Sounds Residential Zone can be adequately dealt with.

The assessment carried out in respect of potential flooding issues has confirmed the appropriateness of the existing Flood Hazard Area identified in the Marlborough Resource Management Plan. Development in this area is already controlled through rules and other assessment criteria in the Plan (as discussed elsewhere in this assessment) and as such no new rules are required to be inserted to address activities within this area. It is understood that at the time of subdivision building platforms will have to be identified and at that time minimum floor heights can be established and protected by way of a consent notice on the new titles to issue.

In terms of roading matters the attached assessments have concluded that the level of traffic likely to be generated through the present proposal can be accommodated within the existing roading network even when combined with traffic from further potential development in the area. While there may be some roading works required there is already a rule in the Marlborough Resource Management Plan (Rule 28.1.26.21.4) that enables the Council to require a financial contribution from the applicants at the time of subdivision towards such works. Given the potential for other subdivision in the area no doubt Council will also be seeking contributions from other parties as well. Given this is it considered there is no need for any additional rules in the Resource Management Plan to address roading matters.

The policy framework of the Plan does not limit the zone to existing locations. Given the relevant part of the Plan is operative it is deemed to give effect to Part II of the Act and as such the use of such a zone in other appropriate locations will do the same. The subject site is considered to be an appropriate location for the reasons given elsewhere in this assessment.

For all of the above reasons it is not considered necessary to create a new zone for the subject site as it is not considered that any new zone would necessarily better achieve the purpose of the Act than the one proposed.

6. ACHIEVING INTEGRATED MANAGEMENT

The Council is required by section 31 of the Act to establish, implement and review objectives, policies, and methods to achieve the integrated management of the effects of the use, development or protection of land and associated natural and physical resources of the District to give effect to the purpose of the Act.

6.1 OBJECTIVES AND POLICIES

It is considered that there are no current activities in the surrounding area that would be incompatible with what is proposed and vice versa. The neighbouring rural zoned properties on the southern boundary are of a similar size to those that can be created under the Sounds Residential zone proposed and are utilised predominantly for rural lifestyle purposes with very little productive rural activities being undertaken. Whilst the zoning pattern proposed may appear illogical, the fact that the sizes of the allotments in the rural zone that would remain are already of the size that could be created within the Sounds Residential Zone it makes little practical difference what zoning they have. Initially it was considered prudent to include the five small rural zoned allotments adjacent within the present request, however, some of the owners of the small rural allotments in question expressed a desire for their current rural zoning to remain as they were concerned what effect a change in zoning would have on rates and current activities being undertaken.

The sizes of the adjacent small rural zoned properties are such that it is most unlikely they could be utilised for rural activities of a scale that could result in reverse sensitivity effects in the future. Activities on the northern and south-western boundaries are in part rural orientated, although none appear to be of a nature whereby incompatibility issues would arise with the rezoning of the site.

Given the above circumstances the zoning pattern would not, in our view, appear to raise any issues in terms of the integrated management of effects. This is due to the size of the small rural zoned properties adjacent already being of a Sounds Residential Zone size and largely being utilised for residential lifestyle purposes. As such the rural zoning of the same does not accurately reflect their nature and to this end it would appear unnecessary to alter the zoning as it is unclear what purpose this would serve. In summary it is considered that what is proposed will not result in there being incompatible activities established near each other. To this extent it is believed that the proposal is consistent with the integrated management of effects requirement of Section 31 RMA.

7. THE MARLBOROUGH SOUNDS RESOURCE MANAGEMENT PLAN

The Marlborough Sounds Resource Management Plan is a combined Regional, District and Coastal Plan.

The provisions within the Marlborough Sounds Resource Management Plan considered relevant to the present proposal are:

7.1 NATURAL CHARACTER

Chapter 2 Objective 1, Policies 1.2, 1.3, 1.4, 1.6

In terms of Natural Character the principles within the Plan are similar to S6(a) of the RMA and the New Zealand Coastal Policy Statement, that is to preserve the natural character of significant environments, in this case the coastal environment. In respect of the present proposal the following are relevant:

The site is not in an area that exhibits pristine natural character, as there is existing development in the area in the form of a harbour/wharf facility, mussel farms and residential properties.

The site is well contained with the extent of any proposed development being rigidly controlled by natural boundaries and as such it will not be practicably visible outside of the bay.

Any potential development that follows the proposed rezoning will be consistent with the existing character of the Marlborough Sounds having small settlements located at the head of an inlet or bay.

These matters are further addressed within the attached Landscape Assessment in Appendix D.

7.2 FRESHWATER

Chapter 3

Freshwater for small communities in the Sounds varies in its quality. Presently at Port Underwood there is a good potable water supply from an existing stream. This supplies the majority of the residents within the bay. The intake is located within native bush, and although it is a surface take there have been no issues with contamination.

In terms of Chapter 3 of the Plan the present proposal is unlikely to adversely impact on any freshwater environment. It is in the interests of all concerned to ensure that the water resource is managed effectively, and the quality of the groundwater is maintained.

The rules for the discharge of stormwater and effluent disposal systems will be designed to ensure that there is no conflict with the taking of water.

If there is any risk of contamination of the supply the intake will be moved further up the stream to ensure a quality supply is still available.

It is not envisaged that the ecology of the streams currently running through the property will be compromised. There are presently flows in to the main channels emanating from surface water flows. The Engineers report has stated that overall there will be only a 2% increase in the concentrated flows for stormwater. This would suggest that the ecology of the streams will not be compromised, other than at present during a flood event.

7.3 LANDSCAPE

Chapter 5 - Objective 1, Policies 1.1

The Plan acknowledges that overall the Marlborough Sounds is a highly modified landscape that is continuously evolving and changing. This occurs both naturally and via the use of resources. The landscape of Marlborough Sounds is thus very dynamic, because of the constantly evolving and changing patterns of land use. The main objective of Chapter 5 of the Plan is to protect those landscapes and features considered outstanding or significant as required by Section 6(b) RMA.

The site for the proposed plan change is not recognised as significant or outstanding within the Plan. There are areas in the locality of the site that have been identified as such, for example a prominent ridge to the west of the property, and to the north of Oyster Bay and Hakahaka Bay as an 'Outstanding Landscape'. As noted above and within the Landscape Assessment attached in Appendix D, the site is well contained within natural barriers, and it is considered that any future development will have less than a minor effect on areas outside.

7.4 URBAN ENVIRONMENTS

Chapter 10 Objective 2

While Chapter 10 – Urban Environments, would appear to be a central chapter for consideration it actually provides little in the way of guidance. The reason being that the relevant provisions in this case (Objective 2 and ensuing policies) are concerned with environmental effects and matters that have been addressed elsewhere in the Plan. The issues raised at Objective 2 have been addressed Sections 2, 6 of this assessment and based on the conclusions reached it is considered that the proposal does not offend Chapter 10 of the Plan.

7.5 RURAL ENVIRONMENT

Chapter 11 Objective 1, Policies 1.2, 1.4, 1.6

The objective of the Plan in respect of rural environments is to retain the distinctive character of the rural landscape. Rural amenity values are listed as the following; landscape and scenic values, individual privacy, open rural outlook, spaciousness, ease of access, clean air, unique odours, overall quietness, water availability and wellbeing of resident people and communities.

The existing community of Oyster Bay is made up of 13 residential properties, six of these are already zoned Sounds Residential and five are Rural but of a size appropriate for Sounds Residential. The other two are the Fitzgerald's house and the Thomson's house on the rural site.

It is acknowledged that the proposed plan change may have some impact on the immediate neighbouring residents but it should be recognised that these neighbouring residents themselves live either in the Sounds Residential Zone or on allotments of a size appropriate for this zone and as such their existing amenity values will be similar to those that the proposed rezoning will provide for. The amenity of the wider rural area will not be adversely affected for the reasons concluded in the attached landscape assessment.

7.6 DISPOSAL OF WASTE TO LAND

Chapter 14 14.2.3 Objective 1, Policies 1.1, 1.2; 14.2.7 Objective 1, Policy 1.1

Provisions in this chapter of the Plan are concerned with the disposal of liquid waste, both sewage and stormwater, so as not to affect water and soil quality and more extensively water and land ecosystems. These matters have been considered and are discussed in detail within the infrastructure reports attached in Appendix B and C. On the basis of the material in these appendices it is concluded that feasible options are available to ensure sewerage and stormwater discharges will not adversely impact on water quality or ecosystems.

7.7 NATURAL HAZARDS

Chapter 16 Objective 1, Policy 1.1, Objective 2, Policies 2.1 & 2.2

The Plan is concerned that areas prone to natural hazards are managed so as to avoid loss of life and avoid, remedy or mitigate damage to property and infrastructure. As is noted within the Engineering Assessment Report in Appendix C there is an area within the site that is identified as a Flood Hazard Area. Rules 30.1.7.1 and 30.4 state that any building activity within such areas are a discretionary activity. As such, any development within the flood hazard area must be assessed against the conditions for Permitted Activities (30.1) and the General Assessment Criteria (30.4.1).

It is therefore considered that there is sufficient control under the Councils discretion to ensure any future development in the area identified is consistent with the relevant objectives and policies of the Plan. Further to this the report has identified further mitigation measures that are able to be imposed at the time of subdivision, such as the location of building platforms and minimum floor levels.

The mitigation measures do not involve extensive works that are likely to generate excessive future maintenance requirements, and this is in keeping with the objectives as set out in Chapter 16.

7.8 LAND TRANSPORT

Chapter 18 - Land Transport; 18.2.1 Objective 1, Policies 1.2, 1.3, 1.4, 1.10; 18.3.1 Objective 1, Policy 1.1

The Plan in respect of land transport is concerned with ensuring that all roading networks both existing and proposed provide safe and convenient access for the community of the Sounds. These issues are addressed in the attached Traffic Reports in Appendix A. These conclude that Port Underwood Road is capable of accommodating the increase in traffic likely to be generated by the rezoning proposed and accounting for other subdivision in the wider area. (See attached reports for further details). As such, it is considered that the proposal raises no conflict with the relevant roading provisions in the Plan.

7.9 SUMMARY

In summary for the above reasons, it is considered that the proposed plan change will not be inconsistent with the Marlborough Sounds Resource Management Plan.

8. REGIONAL POLICY STATEMENT

The only provisions of the Regional Policy Statement (RPS) identified as relevant to the present proposal are:

8.1 PROTECTION OF WATER ECOSYSTEMS

Chapter 5 Objective 5.1.2, Policies 5.1.3 & 5.1.5, Objective 5.1.7, Policy 5.1.8, Objective 5.1.13, Policy 5.1.14, Objective 5.3.2, Policy 5.3.3

The RPS acknowledges the potential threat to water ecosystems from the adverse effects of development and use of resources. The objective therefore is to retain the quality of water within the main ecosystems. This is seen as essential for both the existing properties in the area and the new development proposed.

The two reports submitted with the disposal of wastewater and the discharge of stormwater, include mitigation measures such as buffer zones to ensure that there is no conflict arising between discharges and the present ecosystems. See Appendix B & C.

8.2 COMMUNITY WELLBEING

Chapter 7 – Community Wellbeing; Objective 7.1.2, Policy 7.1.7, Objective 7.1.9, Policy 7.1.10, Objective 7.1.14, Policy 7.1.15, Objective 7.2.7, Policy 7.2.8, Objective 7.3.2, Policy 7.3.3, Objective 7.3.5, Policy 7.3.6

It is acknowledged within the RPS that community interaction is important to provide personal support and cultural awareness, and social development. Quality of life comes from interaction between individuals, the community and their surroundings. It is considered that the proposed plan change will not detract from the quality of life that currently exists within Oyster Bay as it will still maintain the amenity values provided by the unique character of the Sounds settlements and locations. This is due to the site being in close proximity to existing rural residential allotments, and in a location that is typical for such settlements within the Sounds.

Oyster Bay is not an untouched bay in the Marlborough Sounds. History shows that it was settled well before 1845 with the first Pakeha house being built on this site. Over the years the number of dwellings in the bay has increased and the present proposal will enable that to continue.

Located within the site is a historic tree, a Pohutukawa, which is located in the vicinity of the existing Fitzgerald house on the property and is protected in the Plan. As such, it is not considered to be at risk from the proposed plan change.

Consultation has been undertaken with the local Iwi, and Runanga and their relationship with the land is recognised. Please see Section 8 for the details of the consultation.

8.3 PROTECTION OF VISUAL FEATURES

Chapter 8 – Objective 8.1.2, Policies 8.1.5 & 8.1.6

The RPS recognises that the visual character of Marlborough is very diverse and is influenced by the change imposed either by natural processes or by the use of resources.

In recent years the site has had a variety of uses including pastoral, forestry and development of allotments and as such the landscape of the site has been one of continuous change that will continue to develop as required or allowed. It is considered the landscape will be able to absorb the development the zoning would provide for due to the topography and aspect of the site. Please see the Landscape Assessment in Appendix D for further details in this report.

8.4 SUMMARY

In summary, it is considered that the present proposal could not be said to be inconsistent with any relevant provision of the RPS.

9. PART II OF THE RMA

9.1 SECTION 5

Section 5 states the purpose of the Act is to promote the sustainable management of natural and physical resources. It defines sustainable management as managing resources in a way or at a rate, which enable people, and communities to meet their needs while ensuring resources are protected for future generations, safeguarding the life supporting capacity of the natural environment and avoiding, remedying or mitigating any adverse effects on the environment.

9.2 SECTION 6

Section 6 lists “matters of national importance” which are required to be recognised and provided for when managing natural and physical resources. Only Section 6(a) is relevant although it is considered that the pristine natural character values of the site have already been compromised by development, ie mussels farms, wharf and residential properties. The site is well contained which will ensure that any residential development within this area will remain compact and localised to the site. As such, it is considered that the impacts of this area being developed in the long term will not impact on the natural character values of the wider Port Underwood coastal environment.

9.3 SECTION 7

Section 7 lists “other matters” which the Council must “have regard to”. It is considered that the relevant matters to have regard to in respect to the Proposed Change are:

- (b) Efficient use and development of natural and physical resources;
- (c) The maintenance and enhancement of amenity values;
- (f) Maintenance and enhancement of the quality of the environment.”

It is considered that the pressure on coastal property in the Sounds environment will only increase with time and as such this proposed plan change provides an opportunity to control development within a contained setting that will have a minimal amount of impact on the visual and environmental amenity outside of this area. Existing residential allotments already exist in Oyster Bay and as such it is not anticipated that further development will have a significant impact on the character of the area.

The pattern of development that may result from this proposed plan change is also consistent with the traditional pattern evident throughout the Marlborough Sounds. As such, the nature of development the rezoning would provide for is completely consistent with that already in Oyster Bay and other similar locations through the Sounds. To this end it is considered the rezoning proposed will not lead to an 'unusual' or 'out of place' character of development.

9.4 SECTION 8

Section 8 requires the Council to take into account the principles of the Treaty of Waitangi. Various local Runanga were consulted as part of the preparation of the plan change. No written responses were received. A discussion was held with Mr Allen from Waitaha Wairere Marae who was concerned with protecting the water quality in the streams/waterways. This matter is addressed in the attached reports in Appendix C, where it is concluded that water quality can be adequately maintained.

An assessment of the proposed change in terms of Part II can be broken down to the following matters:

Physical effects – including loss of productive rural land, the effect of buildings and the effect on services and traffic.

Community effects – including physical, social and economic effects.

Effects on amenities – including visual effects.

9.4.1 Physical Effects

Loss of Rural Land

The proposed change will enable approximately 26 hectares, in recent times used for pastoral grazing, to be redeveloped for rural residential purposes to cater for in the order of 30 – 40 lots, 4000m² in area each. There is a potential loss of rural production although some ability to utilise the 4000m² blocks for rural purposes will exist. In any event the land is only of marginal use for farming. Furthermore it has been held by the Environment Court in a number of decisions that the use of land for living purposes is a productive use of land.

Effect of Buildings

The present proposal will result in the erection of dwellings across the site as well as the formation of roads and driveways. The potential effects of such activities have been addressed in the attached Landscape Assessment prepared by Mr Langbridge. The assessment considers that the proposed change will not result in any significant loss of amenity value as the scale of the development and the proposed controls on amenity will result in an amenity appropriate to the site and surrounds. It is therefore considered that these physical effects, both visual and on the natural resources such as soil and water, will not be adverse to any significant degree.

Services

The servicing and infrastructure issues associated with the proposal are discussed in detail in the infrastructure reports attached in Appendix B and C. One matter that is not addressed in the attached material is that of what impact the proposal may have on moorings in the area. In the Port Underwood area there are very few private moorings. Oyster Bay has the greatest concentration of moorings, and they are predominantly for commercial use. Of the present residents in Oyster Bay the majority are utilising trailerable craft, both powered and non powered for their recreational and fishing use.

It is not expected that there will be an increased demand for moorings as a result of the present proposal. This is based on the present usage around all the bays, and also is directly related to the accessibility of good fishing areas in a relatively confined sea area. The proximity to the open waters of Cook Strait means that these are accessible in a smaller craft, with a short travelling time, thus negating the demand for moorings as the craft are likely to be trailerable.

Furthermore, it is understood that should anyone want a new mooring a separate approval process would have to be gone through. It is at that time the appropriateness or otherwise of any future mooring can be assessed.

Traffic

As mentioned earlier this matter has been addressed in the assessment completed by Traffic Design Group. The existing road network is capable of dealing with the traffic volumes likely to be generated from within the development and other potential subdivisions of the wider area without any adverse effects.

New roads within the subdivision will be created to Council and accepted engineering standards, and any necessary upgrading to the local roads can be achieved.

9.4.2 Community Effects

Physical Environment

Oyster Bay is a small community of 13 properties being zoned either Rural or Sounds Residential. Oyster Bay is located in Port Underwood on the eastern coast of the Marlborough Sounds. The Bay is located approximately 20 kilometres from Picton, which is the largest service centre for the coastal part of the region. Oyster Bay shares the wider bay that forms the entrance point to Port Underwood with Hakahaka Bay which consists of a small Sounds Residential community, 500 metres to the north.

It is typical of the Marlborough Sounds to have a small number of larger established towns accessible by road servicing the large number of smaller and sometimes more isolated settlements within the Sounds.

It is expected that the demand for coastal property will continue to increase or at least remain at recent levels. The site chosen for the proposed rezoning is an area of land strategically located next to the main entrance to the bay, that is currently serviced by a commercial wharf. The site is well hidden from other users of the bay only being visible to the existing residents within the settlement, with the impact of any further development on the existing amenity values of other users of the wider bay area being well contained.

Social Effects

There is already an existing small community within the area of Oyster Bay. The provision of the choice of rural residential lifestyle blocks on the coast but still in close proximity of one of the larger towns which offers all the necessary facilities and service, will provide the best of both worlds to prospective residents. The majority of properties within Oyster Bay are used as holiday accommodation and not all allotments from the two recent subdivisions have permanent dwellings on them as yet.

While existing residents will experience a change in the environment around them, the amenity values of the area will remain for the most part unchanged. This is because the development will increase the number of residents in the bay, however, they will be on allotments the same size as those existing, and thus will add to the character of development that has developed in the bay in recent years.

Economic Effects

Taking a reasonably simple approach to efficiency and the matters raised in section 7(b), it is considered that the proposal will promote the efficient use and development of resources in the area. Reasons for this include:

- Rural residential use is a productive use of land.
- The rezoning of the site for rural residential use, represents an appropriate and sustainable use of the land.
- The land can be serviced.
- The land has historically been of little value to the community in terms of its past productive use.

9.4.3 Effects on Amenities– Section 7(c)

The plan change raises a number of issues relating to amenity values and these have been addressed in detail in the Landscape Assessment by Mr Langbridge. It is considered that the proposed development will give rise to a change in character of the immediate area from rural to rural residential. It does not follow as a matter of course that this will cause a change in the amenity of the area. In this respect the definition of “amenity values” in the Act refers to characteristics and qualities of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreation attributes.

There will be a gradual increase in population in the bay, although the population in the area has been increasing in recent years as people move away from the larger towns to smaller settlements for quality of life, and for holiday purposes.

There will be additional traffic in the area but again the levels and volumes involved are not significant. This is set out in detail in the material compiled by Traffic Design Group.

There is a close relationship between amenity in section 7(c) and the quality of the environment in section 7(f). It has already been identified that the Marlborough Sounds as a region is a popular place to live or to have a holiday home. Oyster Bay is a pleasant and scenic area offering a number of recreational opportunities being coastal and within an inlet making it a desirable area to live. It is important to ensure that rural residential development in this area, is of a high quality. This includes factors such as ensuring that all services are adequately and properly provided for, design layout is appropriate and landscape matters are dealt with where necessary.

The Sounds Residential Zone contains rules on minimum section sizes and other controls including setbacks for buildings and building coverage. There are also a series of standards and assessment criteria for subdivision within the zone which cover matters such as amenity values , natural character, quality of water resources, along with a range of other matters. It is therefore considered that when all these factors are

taken into account the proposed change is such that it will not be inconsistent with the relevant provisions of Section 7, RMA.

9.5 SUMMARY

Putting all of these matters together, the conclusions in respect of Part II are as follows:

- The proposed change will allow for the rural residential development of land that will provide for the reasonable needs and wellbeing of the Oyster Bay community in a sustainable manner without notable adverse effects on the environment. For this reason, it is considered that Section 5 of the Act is satisfied.
- The proposed change will have no further adverse effects on the natural character of the coastal environment than the current uses and activities. For this reason, it is considered that Section 6(a) of the Act is satisfied.
- The servicing of the ensuing development will mean that the proposal will not offend Section 8 of the Act.
- In terms of section 7, the development:
 - (a) Is an efficient use of resources;
 - (b) Will not detract from the amenities of the area;
 - (c) Will change the character, but will not detract from the quality of the environment

It is therefore considered that the proposed change meets the requirements of Part II of the Act.

10. CONSULTATION

10.1 INTRODUCTION

Consultation in respect of the present proposal has been carried out. Initially this was by way of a letter that explained the proposal and attached to it was a locality plan locating and identifying the site. Those consulted were those required under Clause 3 of the First Schedule and other public and private bodies that may have an interest in the proposal. The consultation sought to encourage feedback prior to lodging the request with the Council, so that all issues of concern could be addressed early on in the process. Following the receipt of any response further communication with the interested party took place. Consultation also occurred with various staff at the Council itself.

Those parties (other than the Council) consulted to date are as follows, with any comments received included under the name of each party consulted along with a note as to how this was received. Where no further detail is given this means that no response has been received.

(a) Department of Conservation

Email 22/7/05

The only aspects raised by DOC were the archaeological site on the flats of Oyster Bay would have to be investigated and a permit sought from Historic Places Trust. They also expressed concern regarding sewage disposal and suggested a requirement to monitor the stream.

(b) Minister for the Environment

(c) Sound of Forest

(d) Underwood Farms Ltd

Letter 26/7/05

Suggestion made that due to the possible increase in number of residents a new wharf and launching ramp be constructed for the residents, along with the provision of a boat storage area, hose down facilities and carparking area. It was also suggested that a single sewage treatment plant be investigated due to the possibility of seepage problems.

- (e) **Port Mussel Co**
- (f) **Ngati Koata Trust**
- (g) **Te Runanga a Rangitane o Wairau**
- (h) **Te Runanga O Ngati Kuia**
- (i) **Ngati Apa**
- (j) **Te Runanga O Kaikoura**
- (k) **Te Atiawa Manawhenua Ki Te Tau Ihu Trust**
- (l) **Te Runanga O Toa Rangatira**
- (m) **Ngati Toarangatira Manawhenua Ki Te Tau Ihu Trust**
- (n) **Ngati Rarua Trust**
- (o) **Te Puni Kokiri**
- (p) **Waitaha Wairere Marae**

Phone call 8/8/05

Concerned with protecting the water quality in the streams and sea.

- (q) **Te Runanga O Ngai Tahu**
- (r) **Tapat Hapu Trust**
- (s) **Marlborough Lines Limited**

Letter 23/08/05

Although at present there are limitations to the existing supply in the area regarding further customer connections, Stage 1 of an upgrade has begun and it is intended to continue with Stage 2 which includes a line upgrade and rebuilding of lines.

- (t) **The Port Underwood Association**

Email / letter 22/8/05 from RR & RA Kirkwood

Issues raised were:

- water supply;
- disposal of sewage and stormwater;
- a monitoring system for waterways;
- effects on the marine environment;
- provision of infrastructure (roading, telecommunication, power);
- effects on riparian areas;
- identification and protection of archaeological, historical and Iwi sites.

(u) Port Marlborough Limited

Port Marlborough raised a concern about increased use of the boat ramp, and parking along the access road to the wharf area. They were concerned the use of the concrete boat ramp which may hinder the access of the trucks utilising the wharf area. The present ramp is the only boat ramp usable by 2WD vehicles at low tide, and for this reason it is used by boat owners from various bays in the Port Underwood area.

Parking of the boats and trailers is along one side of the road to the wharf, and along the foreshore area in Oyster Bay itself. Local owners tend to tow their boat trailer back to their property, and leave it there for the duration.

The existing track to the wharf and boat ramp presently lies within the Sounds Foreshore Reserve. The access track to the ramp crosses part of the area of reclamation surveyed in the mid 1980's, before entering Oyster Bay itself. (See attached SO 6474 in Appendix E). The Title for the reclaimed land CT MB4C/333 states that the purpose of the reclamation is a Local Purpose Reserve for Public Use, and the registered proprietor is listed as The Marlborough Harbour Board.

Irrespective of the public ownership of the facilities in question, it is considered that there may only be a relatively short period over which there may be any congestion, both on the ramp and for parking.

This is due to the following factors:

The majority of dwellings in the Oyster and Hakahaka bays are holiday homes used over the Christmas and other public holiday periods. Only four or five of the 40 dwellings present are occupied on a permanent basis. Over the recent Christmas holiday period it was observed that the maximum number of boat trailers parked in the vicinity of the boat ramp and access was eight. Another two were parked outside of surrounding owner's properties. As such, the boat ramp was not heavily used.

In addition it has been observed that at the time of heaviest use (i.e. over public holidays) there is in fact little commercial activity occurring at the adjacent Port

Marlborough site as this typically occurs during week days and not public holidays.

This combined with the level of use would suggest that there is in fact little potential for conflict between the rights of those using the public facilities and those using the adjacent commercial facilities. If considered to be an area of concern further signage on the Port land may assist to educate boaties as to where not to park their cars and trailers.

Whilst we have taken on board the issue of parking with Port Marlborough, and the proponents of the plan change have agreed that provision for trailer parking will be investigated, the access track itself is on the Sounds Foreshore Reserve and Local Purpose Reserve and as such is outside Port Marlborough's ownership and control. To this end those presently using the area would appear to have rights to do so and the current proposal would in no way alter any such rights.

(v) ER Stevenson & GJ Timms

(w) FA & CJ MacDonnell

Letter 26/8/05

Requesting further information regarding the proposal for water, stormwater, sewage and roading network. They are also happy with the current zoning of their property.

(x) Public Trust - CJ Scaife

Letter/Email 24/8/05

Concerned at how the rezoning may effect the use and the development of their existing allotment.

(y) DIR & GM Nicholls

(z) DS Taylor

Letter 21/08/05

Concerned that it was being proposed to rezone their property without what they felt was proper consultation.

(AA)Transpower

Email 13/12/05

Transpower have advised that they are happy to cover any issue of the protection of their network at the time of subdivision. Transpower identified that there are already rules in the Resource Management Plan that protect Transpower's assets at the subdivision stage.

10.2 SUMMARY

The majority of the responses received were concerned with the infrastructure for any proposed development. It is considered that the reports attached in Appendix B and C adequately address these issues. Another concern that was expressed was from the residents in the rural allotments that were originally proposed to be included in the area to be rezoned. They were concerned in terms of any increase in rates, the activities they may be restricted from carrying out on their properties and that they may have to go onto the same water supply as that proposed for any new development.

There was also concern among the residents in Oyster Bay that they were not adequately consulted, only being consulted via a community group. Given the concerns raised the proposal was amended as requested to remove the existing small rural lots adjoining the site from the proposal. This is a matter that has been addressed at Section 3 of this assessment.

The issues of Archaeological, historical and Iwi have been detailed more under the Infrastructure section.

11. CONCLUSIONS

11.1 INTRODUCTION

It is not a matter of the applicant having to justify why the change should take place. Rather it is a matter of the applicant satisfying the Council that there is no good reason why the change should not proceed. The basis for this lies in Section 32 of the Act in that there can be no presumption that the current zoning better achieves the purpose of the Act than that proposed.

A reason for the proposal not to proceed would be if it was found to be contrary to the purpose of the Act or if it failed the tests set out in Section 32. It is considered that this is not the case in this instance, and therefore that there is no good resource management reason for the proposal not to proceed.

11.2 SUMMARY

To summarise the findings of the assessment of the proposal the following conclusions are made:

- The rezoning of the land will enable opportunities for those wishing to acquire a site in the area without having to purchase a 30ha rural lot. This represents a more efficient use of the land resource given the predominant activity will be residential.
- It is considered better Planning practice to rezone the area as a whole, rather than address individual non complying subdivision activities as has been the case to date.
- It is considered better Engineering Practice to look at the catchment as a whole through the rezoning process rather than on a piecemeal basis through small subdivisions.
- The land can be adequately serviced.
- It provides some certainty for any developer of the land as to the standards expected.
- The roading network can accommodate the additional traffic likely to be generated by the proposal as well as other potential subdivisions in the wider area.

- Should contributions be required for roading improvements provisions already exist in the Marlborough Sounds Resource Management Plan to enable Council to require the same. These provisions are already being used for such purposes in the area.
- Part of the site falls within a Flood Hazard Area and there are rules in the Plan that require Resource Consents to be obtained before building can occur. At the subdivision stage building platforms will have to be identified and minimum floor levels set.
- The proposal will change the character of the area but not adversely impact on the level of amenity given the nature of development that already exists in the locality.
- The proposal will not result in any economic costs to the public generally but will result in numerous economic benefits.
- The proposal will not adversely impact on the landscape quality of the wider area.
- The proposal will not give rise to reverse sensitivity effects.
- The rezoning sought will not be contrary to any relevant provision in the Plan or the RPS.

For all of the above reasons it is considered that the purpose of the RMA will be better achieved by the Proposed Change as it will allow a greater level of residential development over the site in a manner that will not result in any significant adverse effects.

Appendix A

Traffic Report

Appendix B

Soil Evaluation Report

Appendix C

Water & Flood Hazard Report

Appendix D

Landscape Report

Appendix E

Oyster Bay Boat Ramp location

Appendix F

Archaeological Report

Appendix G

Economics Report